

HOUSE BILL No. 5446

September 22, 2009, Introduced by Rep. Cushingberry and referred to the Committee on Appropriations.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2137 (MCL 600.2137), as amended by 2001 PA 76.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2137. (1) If a public officer reproduces court records
2 kept by him or her pursuant to the records ~~media~~**REPRODUCTION** act,
3 1992 PA 116, MCL 24.401 to ~~24.403~~**24.406**, the officer may offer the
4 original records to the department of ~~history, arts, and libraries~~
5 **STATE** for placement in the state archives. If the department of
6 ~~history, arts, and libraries~~**STATE** accepts the offer within 30
7 days, the court shall transfer the records to that department. If
8 the department of ~~history, arts, and libraries~~**STATE** does not
9 accept the offer within 30 days, the court may dispose of or

1 destroy the records in the manner provided for state agencies under
2 sections 285 and 287 of the management and budget act, 1984 PA 431,
3 MCL 18.1285 and 18.1287, and section 5 of 1913 PA 271, MCL 399.5.

4 The record of a court shall not be disposed of or destroyed until
5 the record has been in the custody of the court for not less than 6
6 years.

7 (2) In a county or probate court district in which the county
8 board or boards of commissioners pass a resolution or resolutions
9 for reproducing records pursuant to the records ~~media~~**REPRODUCTION**
10 act, 1992 PA 116, MCL 24.401 to ~~24.403~~**24.406**, the judge of probate
11 may cause the records of the probate court to be so reproduced. The
12 judge of probate shall cause a copy or a duplicate to be kept in a
13 building outside of the probate office and shall keep a copy
14 available in the probate office with any suitable equipment
15 necessary for displaying the record at not less than its original
16 size or for preparing copies for persons entitled to copies. The
17 judge of probate then may order a record destroyed. A reproduction
18 in a medium pursuant to the records ~~media~~**REPRODUCTION** act, 1992 PA
19 116, MCL 24.401 to ~~24.403~~**24.406**, or a reproduction consisting of a
20 printout or other output readable by sight from such a medium is
21 admissible as evidence before a court, commission, or
22 administrative body the same as the original. The original file of
23 an estate proceeding shall not be destroyed until 6 years have
24 elapsed from the date of filing of the discharge of the fiduciary
25 or 10 years have elapsed from the filing of the last document,
26 whichever date occurs first.

27 (3) A court of record other than the district court may order

1 the destruction of a court reporter or recorder note, tape, or
2 recording 15 years after the date that the note, tape, or recording
3 was made for a felony case and 10 years after the date that the
4 note, tape, or recording was made for any other case. One year
5 after a transcript of a note, tape, or recording is filed with the
6 court, the court may order the destruction of the note, tape, or
7 recording. If a transcript of a trial or other proceeding in a
8 court of record other than the district court is ordered other than
9 for filing in the case file, the court reporter or recorder also
10 shall prepare and shall file a certified copy of the transcript in
11 the case file at the expense of the person ordering the transcript
12 unless a copy has been filed with the court or unless the chief
13 judge of the court orders otherwise in an order filed in the case
14 file. As used in this subsection, "felony case" does not include
15 proceedings in a case that occur before arraignment on information
16 or indictment or proceedings in a case in which the defendant is
17 not convicted of a felony.

18 (4) Except as provided in subsection (3), a judicial circuit
19 of the circuit court may order the destruction of its files and
20 records in a case in which action has not been taken during the 25
21 years immediately preceding the order of destruction. All of the
22 following procedures shall be followed before the issuance of an
23 order of destruction of circuit court files and records:

24 (a) The judgment or decree, if any, shall be reproduced
25 pursuant to the records ~~media~~-**REPRODUCTION** act, 1992 PA 116, MCL
26 24.401 to ~~24.403~~-**24.406**, or separated and retained, and the
27 original or reproduction shall be made available for public

1 inspection.

2 (b) The circuit court shall offer the files and records,
3 subject to the order of destruction, to the Michigan historical
4 commission established by 1913 PA 271, MCL 399.1 to 399.10, or a
5 historical commission created pursuant to 1957 PA 213, MCL 399.171
6 to 399.172. If the historical commission accepts the offer within
7 30 days, the circuit court shall transfer the files and records to
8 the historical commission. If the historical commission does not
9 accept the offer within 30 days, the circuit court shall issue an
10 order of destruction.

11 (5) A reproduction of a record in a medium pursuant to the
12 records ~~media~~-**REPRODUCTION** act, 1992 PA 116, MCL 24.401 to ~~24.403~~
13 **24.406**, or a reproduction consisting of a printout or other output
14 readable by sight from such a medium, made as provided by law, has
15 the same force and effect as the original would have had and shall
16 be treated as an original for the purpose of admissibility in
17 evidence. A duly certified or authenticated copy of the
18 reproduction shall be admitted into evidence equally with the
19 original reproduction.

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. ____ or House Bill No. 5423(request no.
22 01945'09) of the 95th Legislature is enacted into law.